

**REMARKS**

Claim 1 is pending in this application. By this Amendment, claim 1 is amended. No new matter is added. Reconsideration of the application based on the above amendments and the following remarks is respectfully requested.

Entry of the amendments is proper under 37 CFR §1.116 because the amendments: (a) place the application in condition for allowance for the reasons discussed below; (b) do not raise any new issue requiring further search and/or consideration as the amendments amplify issues previously discussed throughout prosecution; and (c) place the application in better form for appeal, should an appeal be necessary. The amendments are necessary and were not earlier presented because they are made in response to arguments raised in the Final Rejection. Entry of the amendments is thus respectfully requested.

The Office Action, on page 3, rejects claim 1 under 35 U.S.C. §103(a) as being unpatentable over JP-A-2002-177306 (hereinafter "JP '306"). This rejection is respectfully traversed.

JP '306 teaches an intraocular lens having holes and recesses provided for reduction of a contact area of the intraocular lens with a crystalline lens and also promotion of a flow of aqueous humor (see *e.g.*, Fig. 2 and 4). Careful review of, for example, Fig. 2 of JP '306 reveals that holes 2a are formed in an intermediate part provided between an optical lens part 1 and a supporting part 3, not in the optical lens part expected to provide an optical function for correcting refractive power of an eye. The optical lens section 1 of JP '306 is shaped to have refractive power on front and rear surfaces, (see, *e.g.*, block [0013] of the computer-generated English-translation of JP '306). This optical lens section 1 is a substitute for a crystalline lens. In Fig. 4, holes 11a are arranged around an optical lens part 11 in a similar manner to holes 2a in Figure 2.

As is clearly seen in Figs. 2 and 4, the holes are arranged in the intermediate part not the not the optical pit of the disclosed structure. Throughout the disclosure of JP '306 reference is made to the optical lens section 1 as differentiated from the intermediate part 2. The intermediate part is disclosed of a diameter of 6mm to 8mm, this being the region covered with the iris under ordinary visual conditions (see, for example, Fig. 3). The size, *i.e.*, inner diameter of each of the holes is not specified, but it is reasonable to conclude that these holes may be of a size that may affect image performance because the holes are specifically arranged around the optical lens part. As such, there is no hole (pore) in the optical part (optical lens part) in JP '306, *i.e.*, arranged within a region which is an effective optical region, and the effective optical region having the predetermined refractive power, as is positively recited, among other features, in independent claim 1.

From the totality of the disclosure of JP '306 it is obvious that the intermediate part 2, which allows light to pass, but is formed with many breakthroughs 2a and hollows 2b has no portion serving to, or expected to function to, correct refractive power of a patient's eye. Further, as recited in claim 1 of JP '306, and as described in block [0013], the breakthroughs 2a and hollows 2b are formed through the intermediate provided "outside of the aforementioned optical-lens section." Thus, the optical lens part 1 and the intermediate part 2 are distinguished in the description and the substance of the disclosure in JP '306. This same analysis applies to the exemplary embodiment shown, for example, in Fig. 4 of JP '306. The totality of the disclosure of '306 cannot be disregarded in asserting that "the optical part may be considered 1 + 2 or 11, every region inside of the hepatic support elements 3, 13" as is set forth in the Response to Arguments on page 2 of the Office Action.

Additionally, there is no manner by which JP '306 can reasonably be considered to include a plurality of fine pores arranged within a region which is an effective optical region and centers and surrounds the optical center corresponding to the pupil, and the effective

optical region having the predetermined refractive power, as is positively recited, among other features, in independent claim 1.

Also, despite the assertions to the contrary in the Office Action, placement and sizing of the plurality of fine pores recited in claim 1 is not a matter of mere design choice. Rather, the configuration that is the subject matter of the pending claim provides a single pore formed through an optical part at the optical center, and a plurality of fine pores formed through a region which is an effective optical region of the optical part and centers and surrounds the optical center corresponding to the pupil, and each pore has an inner diameter determined not to degrade the optical characteristics of the optical part. Such selection and configuration of the pores within a region which is an effective optical region of the intraocular lens, while maintaining the predetermined refractive power of the effective optical region is not a matter of mere design choice.

Claim 1 recites, among other features, the fine pores including a fine pore arranged in an optical center of the optical part and a plurality of fine pores arranged within a region which is an effective optical region and centers and surrounds the optical center corresponding to the pupil, each fine pore being of an inner diameter of 0.1  $\mu\text{m}$  to 0.1mm determined to allow aqueous humor to pass through the optical part and maintain optical characteristics of the optical part, and the effective optical region having the predetermined refractive power.

As is positively recited above, the subject matter of the pending claims provides a unique configuration that not only equalizes the pressure of a posterior chamber in the pressure of an anterior chamber but also ensures an appropriate flow passage allowing fresh aqueous humor to flow to even the vicinity of the center of the front of the crystalline lens by providing a single fine pore formed through an optical part of the optical center, and a plurality of fine pores formed through a region which is an effective optical region of the

optical part and centers and surrounds the optical center corresponding to the pupil, and each pore has an inner diameter determined not to damage the optical characteristics of the optical part. Despite the assertions to the contrary in the Office Action, and the arguments made in the Response to Arguments section of the current Office Action, the invention disclosed in JP '306 (1) is structurally different from the subject matter of the pending claim, and (2) does not recognize any objective benefit related to that among which the subject matter of the pending claim is directed.

Accordingly, reconsideration and withdrawal of the rejection of claim 1 under 35 U.S.C. §103(a) as being unpatentable over JP '306 are respectfully requested.

The Office Action, on page 4, rejects claim 1 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,913,898 to Feingold. This rejection is respectfully traversed.

Feingold teaches an intraocular contact lens for implantation into the eye. With reference to Figs. 20-24, the Office Action alleges that Feingold teaches an intraocular lens adapted for placement between the iris and the crystalline lens that is asserted to suggest a combination of features that correspond to those positively recited in claim 1. In fact, on page 5, Office Action states "Feingold has disclosed many various features as pores and grooves (see abstract and col. 2 of specification), however hasn't specifically shown all features used in combination in one figured embodiment nor the size of the pores." The Office Action, however, concludes that it would have been obvious to one of ordinary skill in the art to combine multiple disclosed features of Feingold, such as grooves and pores and their locations, since they have all been disclosed for the purpose of circulating humor and minimizing contact." The Office Action goes on to allege that it would have been obvious to have pore sizes in the claimed range "since Feingold's pores are used for the same purpose, passage of aqueous humor, and such a modification would have involved a mere change in

size of a component." The analysis of the Office Action fails for at least the following reasons.

Feingold teaches an intraocular contact lens adapted for placement between an iris and a crystalline lens as asserted by the Office Action. The Feingold lens has a single hole provided in the center of the optical axis of the lens so as not to damage the optical characteristics of the lens. If the hole in Feingold is larger in size it will affect the optical characteristics of the lens, while if the hole is smaller in size it will fail to allow the aqueous humor in an amount needed to control pressure to continuously flow from a posterior chamber to an anterior chamber. If a plurality of holes is provided in the Feingold invention, such plurality of holes are indicated as being formed near the perimeter of the device. As such, Feingold, like JP '306, cannot reasonably be considered to have suggested a configuration of pores as is positively recited in claim 1, *i.e.*, a plurality of fine pores arranged within a region which is an effective optical region and centers and surrounds the optical center corresponding to the pupil, each fine pore being of an inner diameter determined to maintain optical characteristics of the optical part, and the effective optical region having the predetermined refractive power.

Feingold specifically teaches that it is preferable to provide a single hole in a position along an optical axis of an intraocular lens in order to avoid influence on the optical characteristics of the intraocular lens because the optical axis has no refractive power. If a plurality of holes is provided, the holes are indicated as being preferably formed near the periphery of the intraocular lens for the same purpose, *i.e.*, not to effect the optical characteristics of the intraocular lens (see, *e.g.*, col. 2, lines 54-61). Thus, Feingold is similar in technical concept to JP '306 in that no pore is formed in the effective optical region of the optical part, the region having predetermined refractive power for correction of refractive

power of a patient's eye, and being centered on and around the optical center corresponding to the pupil.

As indicated above, claim 1 positively recites, among other features, the fine pores including a fine pore arranged in an optical center of the optical part and a plurality of fine pores arranged within a region which is an effective optical region and centers and surrounds the optical center corresponding to the pupil, each fine pore being of an inner diameter of 0.1  $\mu\text{m}$  to 0.1mm determined to allow aqueous humor to pass through the optical part and maintain optical characteristics of the optical part, and the effective optical region having the predetermined refractive power. There is nothing in Feingold that can reasonably be considered to have suggested this specific combination of features. The attempt of the Office Action to render obvious the above combination of features requires an unreasonably overly broad reading of any of the subject matter disclosed in Feingold.

In response to Applicants previously having made arguments similar to those proposed above, in the Response to Arguments portion of the Office Action, the Examiner indicates that the example of use of Feingold of the pores around the periphery of the optic "is just one mere example of Feingold's possible placements of pores in the optic, not the only configuration and it is obvious that they may be placed at different locations on the optic, since they are performing the same function at each location, circulation of aqueous humor." The Office Action is unable to point to any suggestion of a configuration as positively recited in claim 1 to overcome Applicants' previous arguments traversing the prior art rejection of claim 1 over Feingold, as discussed above. To infer, as the Office Action seems to, that Feingold may disclose virtually any location for a plurality of pores in attempting to render obvious the subject matter of the pending claims overly broadly construes Feingold for what it explicitly or inherently teaches, or for what it can reasonably be considered to have suggested. Also, the continued broad application of the judicial precedent of *In re Rose*

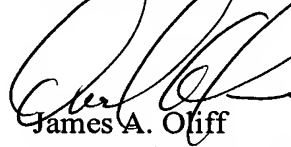
regarding the size of the pores is as inappropriate as it was in previous Office Actions, because the recited range is not, as the Office Action would suggest, merely selected to optimize circulation of aqueous humor, but rather, based on placement of the plurality of pores within an effective optical region of the intraocular lens, the claimed size range also promotes maintaining the optical characteristics of the optical part, and the effective optical region having the predetermined refractive power as is positively recited, among other features, in independent claim. For at least the above reasons, Feingold cannot reasonably be considered to have suggested the combination of all of the features positively recited in claim 1.

Accordingly, reconsideration and withdrawal of the rejection of claim 1 under 35 U.S.C. §103(a) as being unpatentable over Feingold are respectfully requested.

In view of the foregoing, Applicants respectfully submit that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claim 1 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number set forth below.

Respectfully submitted,



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